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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR		6754	
09/806,274	03/27/2001	Wayne Edward Beimesch	390780	0754	
7	590 01/29/2003		EXAM	INER	
Peter C Knops Lathrop & Gage			ROGERS,	ROGERS, DAVID A	
2345 Grand Bo Kansas City, N	oulevard Suite 2800		ART UNIT	PAPER NUMBER	
			2856		
			DATE MAILED: 01/29/200	3	

Please find below and/or attached an Office communication concerning this application or proceeding.

The period for reply expiresmonths from the mailing The period for reply expires on: (1) the mailing date of this A event, however, will the statutory period for reply expire later ONLY CHECK THIS BOX WHEN THE FIRST REPLY WA 706.07(f). Extensions of time may be obtained under 37 CFR 1.136(a). The been filed is the date for purposes of determining the period of except the filed is the date from: (1) the expiration date of the shorter indicates the filed patent term adjustment. See 37 CFR 1.704(b). A Notice of Appeal was filed on 14 January 2003; 37 CFR 1.192(a), or any extension thereof (37 in the proposed amendment(s) will not be entered (a) they raise new issues that would require further they have the issue of new matter (see Note 1).	E THIS APPLICATION IN CON- avoid abandonment of this appl (1) a timely filed amendment wheal (with appeal fee); or (3) a tire REPLY [check either a) or b)] g date of the final rejection. Advisory Action, or (2) the date set forth in than SIX MONTHS from the mailing date as FILED WITHIN TWO MONTHS OF 1 date on which the petition under 37 CFR tension and the corresponding amount of ned statutory period for reply originally set months after the mailing date of the final and the corresponding amount of the final and the final an	lication. A proper reply to a hich places the application in mely filed Request for Continued the final rejection, whichever is later. In no e of the final rejection. THE FINAL REJECTION. See MPEP 1.136(a) and the appropriate extension fee the fee. The appropriate extension fee under to in the final Office action; or (2) as set forth in rejection, even if timely filed, may reduce any distributed within the period set forth in sal of the appeal. ch (see NOTE below);
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issues for appeal; and/or (d) they present additional claims without ca	nceling a corresponding number	1 01 many 1-95-2-1
NOTE:		
- " " has overcome the following f	ejection(s):	
. Applicant's reply has overcome the terms. Newly proposed or amended claim(s) where paper allowable claim(s).	ould be allowable if submitted in	n a separate, timely filed amendmer
Newly proposed or amerided claim(s) canceling the non-allowable claim(s).		Landons NOT place the
5.⊠ The a)□ affidavit, b)□ exhibit, or c)⊠ reque	est for reconsideration has been e: See attached sheet.	considered but does NOT place the
The affidavit or exhibit will NOT be considere	d because it is not directed Soc	LELY to issues which were newly
raised by the Examiner in the final rejection. 7. For purposes of Appeal, the proposed amend explanation of how the new or amended clai	Iment(s) a)□ will not be entered ms would be rejected is provide	d of b) will be children and below or appended.
The status of the claim(s) is (or will be) as for	llows:	
Claim(s) allowed:		
Claim(s) objected to:		
Claim(s) rejected:		
	_·	disapproved by the Examiner.
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8. ☐ The proposed drawing concession in a second s	atement(s)(PTO-1449) Paper N	NO(S)
10. Other:		



As for claim 1, the applicant intends to distinguish the claimed method over the prior art by the use of a closed system as the source of the material containing volatile organic compounds (VOCs). U.S. Patent 5,140,845 to Robbins clearly shows a bag into which a material comprising VOCs is placed. The bag is then sealed and the headspace allowed to reach equilibrium. A flame ionization detector (FID) is then used on a sample of the air in the headspace to determine the existence of VOCs. It is clear that Robbins discloses that the material to be tested is earth that has been exposed to VOCs from a secondary source. Furthermore, it is clear from the method used to test for VOCs that the source of the material is highly independent of the testing method. That is, once placed in the bag, the steps of reaching equilibrium, sampling, and the use of the FID are independent of the source of the material. Additionally, the applicant has not shown how the device of Robbins would not operate if used with material that is from a different source, such as a kiln dryer or other "closed" system. Finally, given the simple fact the the existence of VOCs in any material is well known to be hazardous to those handling that material, one of ordinary skill in the art would clearly recognize that the device of Robbins would be useful in a method to test for VOCs from material from any source.

As for claim 8, the applicant intends to distinguish the claimed apparatus over the prior art by the use of a resealable bag to store VOC-containing material. This is the intended use of the claimed bag and, as seen in the final rejection, has not been considered by the examiner. Bags are well known to be capable of storing a myriad of different materials. Polypropylene bags, as disclosed but not claimed by the applicant, in particular exhibit sufficient strength and durability to store foods, articles, or even VOC-containing materials, as seen in Robbins. U.S. Patent 4,930,906 to Hemphill discloses a bag that is resealable and comprises instructions to use the bag. Clearly one of ordinary skill in the art would provide instructions to use a bag that are specific to the intended use. Furthermore, one of ordinary skill in the art, especially in light of the teachings of Hemphill, would clearly know that any bag, including polypropylene bags, can be provided with an instruction sheet to form a "kit" as claimed by the applicant to inform an intended user on how to store and then test VOC-comprising material.

DANIEL S. LARKIN PRIMARY EXAMINER